

REMARKS

1. The Patent Office Action of November 13, 2008 is hereby acknowledged. The shortened statutory period of three (3) months time period for response to the Office Action expired on February 13, 2009. Concurrently with the filing of this Amendment, the Applicants have requested a two-month extension of time and have paid the required fee of \$245.00. Accordingly, the deadline to now file the Amendment is April 13, 2009. This Amendment is being mailed by United States Express Mail, Express Mail Label No. EM 321146494 US in a postage paid envelope addressed to MAIL STOP AMENDMENT Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 13, 2009. Therefore, this Amendment is timely filed. In the event that the Commissioner for Patents should determine that any additional fee is required for this Amendment to be timely filed, then the Commissioner for Patents is hereby authorized to charge Deposit Account Number 18-2222 for such appropriate fee.

2. The original '101 Application had a total of 22 claims wherein one was an independent claim. Through the prior Preliminary Amendment dated August 6, 2006, the '101 Application had 21 total claims with one independent claim. The '101 Application now contains the same number of claims. Accordingly, no additional filing fee is due. In the event that the Commissioner for Patents should determine that any additional fee is due, then the Commissioner for Patents is hereby authorized to charge Deposit Account Number 18-2222 for the appropriate fee.

This patent application has undergone a great deal of prosecution. There is clearly a disagreement between the Applicants' attorney and the patent examiner concerning the patentability of the present invention. The Applicants have further amended Claim 1 of the invention and has provided in this Amendment very extensive arguments as to why the patent application as now set forth should be allowed. If the Examiner is inclined to now

1 grant the patent application or if the Examiner would like any further modification to Claim 1
2 in order to bring the application into condition for allowance, the Patent Examiner is
3 respectfully requested to call the Applicants' attorney, Thomas I. Rozsa, at (818) 783-0990 to
4 discuss such amendment. If the Examiner is not inclined to grant the patent application, then
5 before issuing a final rejection, the Applicants' attorney Thomas I. Rozsa respectfully
6 requests the Examiner to call Thomas I. Rozsa so that a telephone Office Interview can be
7 conducted to further discuss the Applicants' arguments and the Examiner's rejection. It is
8 the Applicants' intent to appeal this decision to the Patent Office Board of Appeals in the
9 event there is a final rejection and rather than have to go through that lengthy process, the
10 Applicants would like to discuss the Examiner's position after the Examiner has had an
11 opportunity to review the enclosed Amendment so that some agreement on allowability
12 could hopefully be reached.

13

14 3. The Examiner has again rejected the '101 Application in the Office Action,
15 wherein the rejection is based on (a) the same two patents that have been cited as the
16 references since the prior Office Action dated April 28, 2008, and (b) comments that are the
17 same as those of the respective latest three Office Actions dated November 01, 2007, April
18 28, 2008 and November 13, 2008. Therefore, the Applicants respectfully disagree with the
19 rejection, especially since the last Preliminary Amendment dated August 25, 2008 contained
20 a sufficient explanation of the differences between the invention as claimed and the two cited
21 patents which have been consistently referenced by the Examiner, to thereby support
22 patentability of the '101 Application.

23

24 However, in order to reasonably judge patentability of the '101 Application in
25 an efficient manner, it is necessary to clarify viewpoints of each party regarding the "box"
26 and "thin skins and thick core" in which there is disagreement. The Applicants will first
27 summarize the Examiner's same comments from three prior Office Actions in the following
28 Section 3.1. The Applicants will then summarize their explanation which has been presented

1 to respond to the respective prior Office Actions in Section 3.2. The explanation is
2 especially to argue for patentability of Independent Claim 1 since it is the only independent
3 claim of the '101 Application and the remaining claims all depend on it.
4

5 After summarizing the argument from each side, the Applicants will present
6 in Section 4 further analysis on clearly illustrating the structural differences of the "box" and
7 "thin skins and thick core" in the '101 Application, which demonstrate patentability of Claim
8 1. The analysis includes an additional amendment of the element "e" of Claim 1 and graphic
9 evidence to illustrate the "thick skin and thin core" as the structural character of the Nayar
10 Patent.

11
12 The Examiner has rejected the '101 Application in the Office Action,
13 specifically under 35 U.S.C. 103(a) as being obvious over the Nayar Reference as evidenced
14 by Mori. In contrast, the Applicants have firmly argued for patentability of the '101
15 Application, especially for patentability of Claim 1, according to their analysis, which shows
16 that rejection of the '101 Application by the Examiner is not correct. For this reason, the
17 Applicants will restate the analysis presented in the Amendment dated August 25, 2008 in
18 Section 5, to support patentability of Claim 1.

19
20 After demonstrating the patentability of Claim 1, the Applicants will illustrate
21 the patentability of all the dependent claims of the '101 Application in Section 6.

22
23 3.1. The Examiner is rejecting Claim 1 under 35 U.S.C. 103 (a) as being
24 obvious in view of United States Patent No.: 4,126,451 issued to Nayar for "Manufacture Of
25 Plates By Powder-Metallurgy" (hereafter the "Nayar Patent"), which is combined with
26 United States Patent No.: 4,121,928 issued to Sanae Mori for "Method For The Manufacture
27 Of Multi-Layer Sliding material" (hereafter the "Mori Patent"). Specifically, the Examiner
28 states as follows:

1 “5. In regards to claim(s) 1, Nayar discloses a method of producing a
2 frame-metal-matrix-composite-sheet from a powder mixture (abstract), comprising:
3 producing said powder mixture by mixing a matrix metal powder and at least one claimed
4 reinforcement material (col. 3, line 49 to col. 4, line 5; Example 5, col. 12, lines 3-10);
5 loading said powder mixture into a metal frame to form a framed mixture, further comprising
6 compacting said framed mixture to form a framed compact having the claimed theoretical
7 density (col. 2, lines 37-43; col. 2, lines 48-50); consolidating said framed compact to form a
8 framed-billet that is in the claimed theoretical density (col. Line 59 to col. 3, line 15; col. 3,
9 lines 36-44), wherein said consolidation further comprises degassing of said framed compact
10 to form degassed -framed-compact (col. 2, lines 57-59); and rolling said framed- billet to said
11 framed-metal-matrix-composite-sheet to form a plate/sheet without edge cracks (col. 4, lines
12 48-63)”, from ***Office Action dated November 01, 2007, Office Action dated April 28, 2008,***
13 ***Office Action dated November 13, 2008.***

14 “5. In regards to Claim(s) 1 amendment “being a box,” Nayar
15 discloses a metal frame being a box (Figures 1 and 2). It is noted that a box is a container,
16 case, receptacle, usually rectangular and oftentimes with at least a lid or removable cover.
17 Furthermore, the metal frame (1) is a box with two lids (3.4)”, from ***Office Action dated***
18 ***April 28, 2008.***

19 “6. However, Nayar does not explicitly disclose framed-metal-matrix-
20 composite-plate/sheet is comprised of thin skins of said frame metal, as compared with the
21 metal-matrix-composite as a core of said plate/sheet. Nayar discloses in Figure 2 and Table
22 II (TP vs. Tm; wherein TP is $(T_d - T_m)/2$ wherein the dimensions of the punch plates (after
23 rolling, Tp) are thicker or the same value as the presses, inner powder later (Tm after
24 rolling)”, from ***Office Action dated November 01, 2007, Office Action dated April 28, 2008,***
25 ***Office Action dated November 13, 2008.***

26 “7. It would have been obvious to one of ordinary skill in the art to
27 modify the dimensions of the punch plates to be thin in comparison to the pressed metal
28 powder layer because it has been held that where the only difference between the prior art

1 and the claims was a recitation of relative dimensions of the claimed device and a device
2 having the claimed relative dimensions would not perform differently than the prior art
3 device, the claimed device was not patentably distinct from the prior art device. See MPEP
4 2144.05 IV", from *Office Action dated November 01, 2007*, and *Office Action dated*
5 *November 13, 2008.*

6

7 3.2 The Applicants disagree with rejection of Claim 1 by the Examiner,
8 specifically with regards to two fundamental issues:

9 3.2.1 regarding the "box" structure of the '101 Application:

10 The Amendment dated January 22, 2008, Page 10 states that" It is clear that as illustrated in Table 1, the step 'b' of Claim 1 states the mixture of the
11 powder which is encapsulated by the frame metal in the shape of a box. The structure of the
12 box shaped metal frame of the '101 Application is new and not anticipated by the Nayar
13 Patent, where the Patent discloses a flat 'layer 14' as the "backing layer" derived from a
14 stainless steel punch to support powdered metal.

15

16 In fact, a meaning of the frame is commonly agreed to be
17 '*something composed of parts fitted together and united*' (Webster's Ninth New Collegiate
18 Dictionary). Therefore, the layer 14 of the Nayar Patent cannot be considered as the frame.
19 For this reason, the inventor Nayar never discloses the backing layer 14 as the frame of the
20 metal powder. Therefore, the produced sheets/plates are structurally different from the
21 Nayar Patent and the '101 Application".

22

23 The Amendment dated August 25, 2008, Page 11 states that "It
24 is clear that, from the contents of Table 1 that compare structural differences between the
25 '101 Application and the Nayar Patent combined with the Mori Patent, the '101 Patent is
26 absolutely different from the two cited patents. The differences are:

27 a) The composite of the '101 Application is encapsulated by
28 the frame metal in the shape of a box, as compared with the composite of the cited patents

1 that is only positioned onto the respective flat ‘layer 14’ as the ‘backing layer’ (the Nayar
2 Patent) and ‘a strip of steel 1’ as the bottom structure of the products (the Mori Patent).
3 Obviously, a flat layer of materials cannot be considered to be a box. Therefore, the
4 produced sheets/plates of the ‘101 Application are structurally different from products of the
5 Nayar Patent combined with the Mori Patent’.

6

7 3.2.2 regarding the structural characteristics “thin skins and thick
8 core” of the ‘101 Application:

9 The Amendment dated January 22, 2008, Pages 13 and 14
10 clearly states that; “The Applicants further disagree with the Examiner’s findings listed in
11 Section 6 of the Office Action, and the Examiner’s rejection of Claim1 of the ‘101
12 Application under 35 U.S.C. § 103, listed in Section 7 of the Office Action.

13 First, the Examiner concludes in his findings that ‘Nayar
14 discloses in Figure 2 and Table II (T_p vs. T_m ; wherein T_p is $[T_d - T_m]/2$) wherein the
15 dimensions of the punch plates (after rolling, T_p) are thicker or the same value as the
16 pressed, inner powder later (T_m after rolling)’. Second, the Examiner second states his
17 rejection based on his findings on the related dimensions and an assumption that ‘because it
18 has been held that where the only difference between the prior art and the claims was a
19 recitation of relative dimensions of the claimed device and a device having the claimed
20 relative dimensions would not perform differently than the prior art’ (Section 7, the First
21 Office Action). In fact, both of the Examiner’s findings and assumption are not correct
22 according to the respective disclosure of the Nayar Patent and concepts of advantages of the
23 metal-matrix composite materials over the conventional plain metal materials.

24 The Applicants first illustrate a structural character of the
25 Nayar Patent, which consists of a ‘thin’ core of the composites and a ‘thick’ skin of the
26 punch materials. For a first example, the Nayar Patent discloses that the punch 4 was 0.75
27 inches in thickness (Table I, Punch Parameters, Ex. 1A). When the powder is not
28 compressed, its thickness, T_M , is ‘0.75’ inches (Table II, Example 1A from 0 pass).

1 However, after passing one time during the compression process, the thickness of the
2 compressed powder served as the core materials, T_M , is '0.5' inches (Table II, Example 1A
3 from 1 pass), which is significantly less than the thickness 0.75 inches of the punch which
4 serves as the 'skin' of the composite materials.

5 As to a second example, the Nayar Patent discloses that the
6 thickness T_M of the powder layer of Example '1' in Table II changes from 0.563 inches to 0.
7 263 inches in accordance with change of the situation when the powder is not compressed to
8 when the powder is compressed by two passes. Therefore, it is certain that the punch as the
9 "skin" is much thicker (0.5 inches, Table I, Punch Parameters, EX. 1) than the compressed
10 powder (0.263 inches) as the core structure.

11 In fact, all the examples listed in Tables I and II consistently
12 disclose the structural character of the thick skin and thin core composite material for the
13 Nayar Patent, except for only one Example 6, which is uncompleted or unsatisfied due to
14 missing data of the powder thickness.

15 Therefore, the structural character of the 'thin skin and thick
16 core' of the '101 Application is distinguishable, as compared with the above revealed
17 structural character of the 'thick skin and thin core' of the Nayar Patent. Therefore, the
18 conclusion is that there is no overlap of dimensional ranges of the core composite materials
19 between the Nayar Patent and the '101 Application. This also leads to that the rejection of
20 the '101 Application based on the obviousness is not appropriate in accordance with rules of
21 MPEP, 2144.05 I, Sectional Title 'OVERLAP OF RANGES', containing guidelines for
22 rejection under 35U.S.C.103.

23 Furthermore, the structural character of having the 'thick' core
24 composites determines superior properties of the framed-metal-matrix composite materials of
25 the '101 Application, as compared with the Nayar composite materials having the "thick"
26 plain metal as the core structure. This is due to the fact that it is commonly understood that
27 composite materials have superior properties over the conventional plain metal structure
materials. Therefore, it is inappropriate for the Examiner's to state that: '*a device having the*

claimed relative dimensions would not perform differently than the prior art', where the statement logically leads to the inappropriate rejection of the '101 Application in the First Office Action".

In addition, the latest Amendment dated August 25, 2008 (Table 1, Page 12) firmly confirms the above Applicants' statement.

4. A further analysis regarding the structural characters of the “box” and “thin skins and thick core” of the ‘101 Application

4.1 The Applicants still consistently believe the structural uniqueness of the “thin skin” that encapsulates the core of the composite of the ‘101 Application is absolutely different from application of the punch as the backing layer of the Nayar Patent.

It is evident for one of ordinary skill in the art to understand that the die 1 in Figures 1 and 2 of the Nayar Patent is only used in the process to facilitate making the final product: powder-metallurgical plates, and the die 1 itself is not a part of the final product plates. Therefore, the die 1 incorporated with two punches 3 and 4 does form a box structure (Figure 2), wherein the “box structure” exists only in the process of manufacturing the plates. Technically, the die 1 must be removed after the plate is completed, so that the finished plate only has one punch that serves as a backing layer 14 (see Figure 6, and disclosure in col. 8, lines 35-38). This proves that there is an absence of a boxed structure in the finished product for encapsulating the metallurgical composite in the Nayar Patent.

In contrast, the finished product plate/sheet of the ‘101 Application does have an exterior “boxed structure”, as clearly stated in element d: “rolling said framed-billet to form said framed-metal-matrix-composite-plate/sheet without edge cracks, wherein said plate/sheet is comprised of thin skins of said frame metal , which encapsulate said metal-

1 matrix-composite having uniform composition as a thick core" (Claim 1).
2

3 The Examiner does not comment about the skin that "encapsulate said
4 metal-matrix-composite" in the sectional claim "d" of Claim 1 of the '101 Application.
5 Instead, the Examiner selectively comments about "a box" in the section element "b" of
6 Claim 1 in his statement "5. In regards to claim(s) 1, amendment 'being a box', Nayar
7 discloses a metal frame being a box (Figures 1 and 2). It is noted that a box is a container,
8 case, receptacle, usually rectangular and oftentimes with at least a lid or removable cover.
9 Furthermore, the metal frame (1) is a box with two lids (3.4)"(from ***Office Action dated***
10 ***April 28, 2008***).
11

12 However, in order to further emphasize the structural difference of
13 the '101 Application, as compared with the Nayar Patent combined with the Mori Patent, the
14 Applicants have particularly amended claim element "e" of Claim 1 as follows through this
15 Amendment:
16

17 "e. said method results in a high sheet yield rate for producing said
18 encapsulated-metal-matrix-composite-plate/sheet comprising said thick core of the
19 composite that has said uniform composition".
20

21 The claimed structure "encapsulated-metal-matrix-composite-
22 plate/sheet", in addition to another previously claimed structure "which encapsulate said
23 metal-matrix-composite having uniform composition as a thick core" of the claim element
24 "d", now emphasize that the structure of the final product plate/sheet has the skin to
25 encapsulate the composite core, which is different from the structure of having the backing
26 layer of the Nayar Patent.
27

28 Therefore, this demonstrates that the '101 Application is patentable
with respect to its "box" structure of the final product.

1 4.2 The Applicants still firmly believe that the structural uniqueness of the
2 “thin skin” of the ‘101 Application is different from the thick punch which serves as the
3 backing layer of the Nayar Patent.
4

5 The Applicants believe that they have presented sufficient evidence in
6 the Amendment dated January 22, 2008 to demonstrate the fact of having the “thin skin” and
7 “thick core of composite” of the ‘101 Application clearly differentiates the claim from the
8 “thick backing layer” and “thin composite layer” of the Nayar Patent.
9

10 The evidence includes a detailed analysis that is enclosed in the
11 Amendment dated January 22, 2008 which stated:

12 “The Applicants first illustrate a structural character of the Nayar
13 Patent, which consists of a ‘thin’ core of the composites and a ‘thick’ skin of the punch
14 materials. For a first example, the Nayar Patent discloses that the punch 4 was 0.75 inches in
15 thickness (Table I, Punch Parameters, Ex. 1A). When the powder is not compressed, its
16 thickness, T_M , is ‘0.75’ inches (Table II, Example 1A from 0 pass). However, after passing
17 one time during the compression process, the thickness of the compressed powder served as
18 the core materials, T_M , is ‘0.5’ inches (Table II, Example 1A from 1 pass), which is
19 significantly less than the thickness 0.75 inches of the punch which serves as the ‘skin’ of the
20 composite materials.

21 As a second example, the Nayar Patent discloses that the thickness T_M
22 of the powder layer of Example ‘1’ in Table II changes from 0.563 inches to 0.263 inches in
23 accordance with change of the situation when the powder is not compressed to when the
24 powder is compressed by two passes. Therefore, it is certain that the punch as the ‘skin’ is
25 much thicker (0.5 inches, Table I, Punch Parameters, EX. 1) than the compressed powder
26 (0.263 inches) as the core structure.

27 In fact, all the examples listed in Tables I and II consistently disclose
28 the structural character of the thick skin and thin core composite material for the Nayar

1 Patent, except for the only one Example 6, which is uncompleted or unsatisfied due to
2 missing data of the powder thickness.

3 Therefore, the structural character of the ‘thin skin and thick core’ of
4 the ‘101 Application is distinguishable, as compared with the above revealed structural
5 character of the ‘thick skin and thin core’ of the Nayar Patent. Therefore, the conclusion is
6 that there is no overlap of dimensional ranges of the core composite materials between the
7 Nayar Patent and the ‘101 Application. This also leads to that the conclusion that rejection of
8 the ‘101 Application based on obviousness is not correct and is not in accordance with rules
9 of MPEP, 2144.05 I, Sectional Title ‘OVERLAP OF RANGES’, containing guidelines for
10 rejection under 35U.S.C.103.

11 Furthermore, the structural character of having the ‘thick’ core
12 composites determines superior properties of the framed-metal-matrix composite materials of
13 the ‘101 Application, as compared with the Nayar composite materials having the “thick”
14 plain metal as the core structure. This is because that it is commonly agreed that composite
15 materials have superior properties over the conventional plain metal structure materials.
16 Therefore, it is inappropriate for the Examiner’s to state that: *a device having the claimed*
17 *relative dimensions would not perform differently than the prior art*, where the statement
18 logically leads to the inappropriate rejection of the ‘101 Application in the First Office
19 Action”.

20
21 In addition to the above cited analysis from the prior Amendment,
22 Figure 2 of the Nayar Patent also additionally demonstrates the structural character of having
23 the thick backing layer and thin composite layer. To provide additional support for this
24 conclusion on such structural character, the Applicants enclose as EXHIBIT A a modified
25 Figure 2, which exhibits additional thickness measured by the Applicants, to illustrate such
26 structural character. Referring to the modified Figure 2, there is illustrated that, before
27 compressing the composite-powder-layer “ T_M ”, a thickness of “ T_M ” is measured as 1.2 cm in
28 Figure 2. The thickness 1.2 cm is significantly less than a thickness “ T_p ” of the punch 3 that

1 is measured as 1.6 cm.
2

3 In addition, one of ordinary skill in the art would understand that the
4 thickness " T_p " of the punch will not be changed after the pressing process in manufacturing.
5 As a comparison, the thickness of the composite powder layer " T_m " is expected to be
6 significantly reduced after the pressing process. This logical rationalization is consistent
7 with the experimental data listed in Table 2 of the Nayar Patent. Therefore, both of the
8 graphic figure and numerical data support the structural characteristics having "thick"
9 backing layer and "thin" composite core of the Nayar Patent.

10
11 Clearly such thickness character does not support the Examiner's
12 repeated statement "6. However, Nayar does not explicitly disclose framed-metal-matrix-
13 composite-plate/sheet is comprised of thin skins of said frame metal, as compared with the
14 metal-matrix-composite as a core of said plate/sheet. Nayar discloses in Figure 2 and Table
15 II (T_p vs. T_m ; wherein T_p is $(T_d-T_m)/2$ wherein the dimensions of the punch plates (after
16 rolling, T_p) are thicker or the same value as the presses, inner powder later (T_m after rolling)"
17 (from *Office Action dated November 01, 2007, Office Action dated April 28, 2008, Office*
18 *Action dated November 13, 2008*).

19
20 In conclusion, from applying both the Nayar's experimental numerical
21 data and graphical figure, the Applicants have one more time demonstrated the structural
22 character of having the thicker backing layer and thinner composite layer of the Nayar
23 Patent. Such character is structurally different from the '101 Application having the thinner
24 skin to encapsulate the thicker composite core. Therefore, Claim 1, which possesses such
25 structure, should be patentable over the Nayar Patent".

26
27 In addition to the above stated structural difference, the Applicants
28 have provided an additional structural limitation: "uniform composition" in Claim 1 of the

1 ‘101 Application. The limitation is based on the specifically disclosed powder “blended
2 uniformly” for “producing the MMC mixture” in Claim 1 of the ‘101 Application.
3 Therefore, this additional structural limitation further supports patentability of Claim 1 of the
4 ‘101 Application.

5
6 In addition, the following copies a summary of the structural
7 differences of the ‘101 Application as compared with the cited two patents, wherein the
8 summary was presented in the Amendment dated August 25, 2008:

9 “It is clear that, from contents of Table 1 that compare structural
10 differences between the ‘101 Application and the Nayar Patent combined with the Mori
11 Patent, the ‘101 Patent is absolutely different from the two cited patents. The differences
12 are:

13 a) The composite of the ‘101 Application is encapsulated by the frame
14 metal in the shape of a box, as compared with the composite of the cited patents that is only
15 positioned onto the respective flat ‘layer 14’ as the ‘backing layer’ (the Nayar Patent) and ‘a
16 strip of steel 1’ as the bottom structure of the products (the Mori Patent). Obviously, a flat
17 layer of materials cannot be considered as a box. Therefore, the produced sheets/plates of
18 the ‘101 Application are structurally different from products of the Nayar Patent combined
19 with the Mori Patent.

20 b) The composite as the core of the materials of the ‘101 Application
21 has the uniform composition, which is absolutely different from the non-uniform
22 composition of the composite from the Nayar Patent combined with the Mori Patent.

23 c) The ‘101 Application discloses a technology that manufactures each
24 of sheets/plates having the core of composite in a discrete manner, wherein each sheet/plate
25 has a limited length in an elongated direction. In a comparison, the technology of the Nayar
26 Patent combined with the Mori Patent manufactures composite in a continuous manner
27 (Figure 1), wherein the composite in a coiled form has a significant length in an elongated
28 direction. Therefore, the coiled composite from the Nayar Patent combined with the Mori

1 Patent is absolutely different from the sheeted/plated composite of the ‘101 Application’;
2 and

3 “Therefore, the above illustration of the structural differences
4 demonstrates that the ‘101 Application as claimed by Claim 1 is patentable over the Nayar
5 Patent or the Mori Patent”.

6

7 5. The Applicants consistently believe that the ‘101 Application as claimed by
8 Claim 1 is patentable, as compared with the Examiner’s rejection under 35 U.S.C. 103.
9 Therefore, the Applicants believe that the detailed analysis as to why the ‘101 Application is
10 patentable under 35 U.S.C. 103 is still valid in the Amendment dated August 25, 2008 to
11 oppose the Examiner’s rejection in the current Office Action. Therefore, the Applicants have
12 copied some sections of the analysis as follows:

13

14 “Following the guidelines of MPEP, the Applicants provide the following
15 analyses to demonstrate that it is incorrect for the Examiner to combine the Nayar Patent
16 with the Mori Patent for rejecting the ‘101 Application

17

18 6.1 A combination of the Mori Patents does change the mode of
19 operation of the Nayar Patent if they are combined with

20 It is clear that the way that the Nayar Patent manufactures the
21 composite is in a discrete fashion, which is similar to that manufacturing method of the ‘101
22 Patent. However, the Mori Patent discloses a procedure in a continuous manner to make the
23 composite in the coiled form. Therefore, it does change the mode of operation of the Nayar
24 Patent if it is combined with the Mori Patent.

25 In addition, the Nayar Patent discloses the structural character of the
26 product having a thick backing layer and thin core composite material (see detailed
27 illustration from the prior amendment dated January 22, 2008), which contradicts a structural
28 character of the Mori Patent having a thin backing layer and thick core composite material.

1 These lead a conclusion, if combining with the Mori technology, the Nayar Patent would
2 certainly change its mode of operation.

3 Therefore, based on a court finding that "*If the proposed modification*
4 *or combination of the prior art would change the principle of operation of the prior art*
5 *invention being modified, then the teachings of the references are not sufficient to render the*
6 *claims prima facie obvious. In re Ratti, 123 USPQ 349*", which is also listed in MPEP Rev.
7 3, August 2005; 2100-138, the Applicants believe that the Examiner's rejection of Claim 1 is
8 incorrect from his reasoning of 'obviousness'.

9

10 6.1 A combination of the Mori Patents does not give reasonable
11 expectation of success of the Nayar Patent if they are combined with

12 As claimed in the Nayar Patent, one of the objects of the invention is
13 to provide products of the powder metallurgy having a uniform composition (see Examples
14 2, 4 and 6 that the powder is a uniform mixture). However, the objective of the Mori Patent
15 is aimed at producing a multi-layer sliding material (Abstract). What the Mori technology
16 does is to include dispersing a second layer of powdered materials onto a first layer of
17 powdered materials that are different from the second layered materials, so that a composite
18 that is manufactured has nonuniform composition. Therefore, the Nayar Patent will
19 definitely fail its object if combining with the Mori Patent. In conclusion, following the
20 court finding that "*Evidence showing there was no reasonable expectation of success may*
21 *support a conclusion of nonobviousness*" *In re Rinehart, 189 USPQ 143*; MPEP Rev.3,
22 August 2005, 2100-139, the Applicants believe that Claim 1 of the '101 Application is not
23 obvious over the Nayar Patent which is combined with the Mori Patent, and should be
24 patentable.

25

26 6.3 Rejection of the '101 Application based on a combination of the Nayar
27 Patent and the Mori Patent violates a criterion of being obviousness
28 that all claim limitations must be taught or suggested

The Applicants believe that the amended Claim 1 of the '101

1 Application is nonobvious over the combination of the Nayar Patent which is combined with
2 the Mori Patent following a criterion that the claimed section claim “e. said method results in
3 a high sheet yield rate for producing said framed-metal-matrix-composite-plate/sheet
4 comprising said thick core of the composite that has said uniform composition” is not taught
5 from the Nayar and Mori Patents. Particularly, the Nayar Patent does not teach the high
6 sheet yield rate, and the Mori Patent does not disclose the uniform composition. Therefore,
7 the rejection of the ‘101 Application claimed by Claim 1 is inconsistent with the court
8 finding that ‘*To establish prima facie obviousness of a claimed invention, all the claim*
9 *limitation must be taught or suggested by the prior art.*’ *In re Poyka*, 180 USPQ 580; MPEP
10 Rev. 3, August 2005, 2100-139. In other words, the ‘101 Application should be patentable.
11

12 In conclusion, from the above analyses in Sections 6.1, 6.2 and 6.3, the
13 Applicants have demonstrated that the amended Claim 1 of the ‘101 Application is
14 nonobvious over the combination of the Nayar Patent which is combined with the Mori
15 Patents, where the analyses follow instructions of MPEP, Section 2143 Basic Requirements
16 of a *Prima Facie* Case of Obviousness, Rev. 3, August 2005, 2100-135 to 2100-140.
17 Therefore, the Applicants request the Examiner to allow the amended Claim 1 of the ‘101
18 Application to be patented”.

19 6. All the dependent Claims 2, 3, 5-22 of the ‘101 Application are patentable
20

21 The Applicants believe that they provided detailed analyses as to why all the
22 dependent claims are patentable from the previously Amendment dated August 25, 2008,
23 wherein the analyses are still valid. For a purpose to simply this Amendment, the Applicant
24 will not copy the analyses, but declare their patentability since “*If an independent claim is*
25 *nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious.*” *In re*
26 *Fine*, 5 USPQ2d 1596; MREP Rev. 3, August 2005. In fact, the Applicants one more time
27 repeatedly demonstrate patentability of the independent Claim 1 of the ‘101 Application.
28

7. In conclusion, through this Amendment the Applicants have systematically summarized their consistent viewpoints of patentability of the ‘101 Application as claimed by Claim 1-3, and 5-22. Specifically, since the claims define a novel structure which is new and not anticipated, or obvious by the cited prior references, the Applicants submit that such claims are clearly patentable. Therefore, it is respectfully submitted that the present ‘101 Application is in condition for allowance and issuance of a Notice of Allowance of the ‘101 Application is respectfully solicited.

Respectfully submitted,

Date: April 13, 2009

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Enclosure: EXHIBIT A

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